

**IN THE HIGH COURT OF SINDH AT KARACHI**

**Miscellaneous Appeal No. 47 of 2022**

**Present**

**Mr. Justice Muhammad Jaffer Raza**

Muhammad Sajid ..... Appellant.

Versus

Muhammad Yousuf Khan & others..... Respondents.

Mr. Usman Farooq, Advocate for the Appellant.

Mr. Badar Alam Advocate for the Respondents a/w

Mr. Kashif Badar Advocate.

Dates of Hearing: 11.04.2025 & 22.04.2025.

Date of announcement: 30.05.2025

**J U D G M E N T**

**MUHAMMAD JAFFER RAZA – J:** The instant Miscellaneous Appeal has been filed under Section 15 of the Defamation Ordinance, 2002 (“**the Ordinance**”) impugning the order dated 28.04.2022 passed in Defamation Suit No.22/2020 preferred by the Appellant, whereby the said suit was dismissed.

2. Learned counsel for the Appellant has submitted that the above-mentioned suit was filed under the Ordinance and damages were sought against the Respondents for defaming the Appellant. Learned counsel has contended that the learned Trial Court has dismissed the suit of the Appellant on erroneous considerations, without recording the evidence of the respective parties.

3. Conversely, learned counsel for the Respondents has argued that the suit, as filed by the Appellant, was lawfully dismissed by the learned trial Court as the same was beyond the prescribed period of limitation. Learned counsel has further argued that according to the contents of the plaint the cause of action accrued, if at all, in favour of the Appellant on 10.03.2020. It is

contended by the learned counsel that the legal notice under Section 8 of the Ordinance was sent on 19.10.2020 and therefore the above-mentioned suit was time barred. Learned counsel has lastly argued that law of Limitation must be adhered to in letter and spirit and no waiver is permissible. Learned counsel in support of his arguments has relied upon the following judgments: -

- **Mst. Shamim Akhter vs. Muhammad Hanif Qureshi<sup>1</sup>**
- **Allah Dino & another vs. Muhammad Shah & others<sup>2</sup>**
- **Elahi Baksh vs. Chief Administrator of Waqf Property<sup>3</sup>**
- **Hakim Muhammad Buta & another vs. Habib Ahmed & others<sup>4</sup>**

4. I have heard the learned counsels and perused the record. More particularly I have examined the Impugned Order thoroughly. It is apparent from the perusal of the Impugned Order that the suit filed by the Appellant was dismissed primarily on two grounds. Firstly, it has been held by the learned trial Court that the suit is beyond the pecuniary jurisdiction vested in it. Secondly, the suit has been dismissed on the ground of limitation. I will attempt to adjudicate the instant appeal by framing the points of determination below: -

- i. **Whether the learned trial court is vested with the pecuniary jurisdiction to adjudicate the suit?**
- ii. **Whether the suit of the Appellant was barred by limitation?**

**Point No.(i).**

5. Both the learned counsels concede to the proposition that the learned trial court, at all relevant times, had unlimited pecuniary jurisdiction in defamation suits in light of Section 13 of the Ordinance. Counsels further contend that the instant issue need not be deliberated upon in detail, as the same has been rendered redundant after promulgation of The Sindh Civil Courts (Amendment) Act, 2025. I agree with the contentions advanced jointly by the learned counsels. However, it is observed that even if the learned Trial

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<sup>1</sup> 2013 CLD 456

<sup>2</sup> 2001 SCMR 286

<sup>3</sup> 1982 SCMR 160

<sup>4</sup> PLD 1985 SC 153

Court was not vested with the pecuniary jurisdiction to entertain the above-noted suit, the plaint ought to have been returned under Order 7 Rule 10. The same was erroneously held to be a ground for dismissal. The said point is answered in the affirmative.

**Point No.(ii)**

6. To adjudicate the instant question, it will be imperative to examine the provisions of Section 8 and 12 of the Ordinance. The same are reproduced below: -

*“8. Notice of action. – No Action lies unless the plaintiff has, within two months after the publication of the defamatory matter has come to his notice or knowledge, given to the defendant, fourteen days notice in writing of his intention to bring an action, specifying the defamatory matter complained of.”*

*12. Limitation of actions. – An action against ---  
 (a) an author, editor, proprietor or publisher of a newspaper;  
 (b) the owner of a broadcasting station;  
 (c) an officer, servant or employee of the newspaper or broadcasting station; or  
 (d) any other purpose, for defamation contained in the newspaper or broadcast from the station or in publication otherwise shall be taken within six months after the publication of the defamatory matter came to the notice or knowledge of the person defamed.”*

7. A combined reading of both the sections reveals that the notice of action under Section 8 must be sent within two (2) months of the publication of the alleged defamation. Needless to mention that the period herein shall be computed from the date of knowledge. Both the learned counsels agree that the period of limitation provided under section 12 is six (6) months. The question before me is the date from which the period of limitation is to be computed in the present case. For the said purpose, it will be imperative to examine the contents of the notice sent by the Appellant under Section 8 of the Ordinance.

8. It is apparent that the said notice was dispatched on 19.10.2020 to the Respondent. Bare perusal of the notice would reveal that the same refers to various instances in which the Appellant was allegedly defamed. The last instance of the alleged defamation has been stated in the notice as 27.09.2020. It is evident that the notice was dispatched within 2 months of the date of the last

alleged defamation. The previous instances were clearly beyond the two-month period, but it will be at this stage, inane to bifurcate the various instances of the alleged defamation. It is apparent from the bare reading of the said notice that the Appellant is alleging and hinting towards a defamatory campaign and hence the said incidents cannot be treated in isolation. They are a bundle of facts which can only be untangled after recording of evidence. I do not wish to deliberate further regarding the contents of the same and have purposely left it open for the learned Trial Court to adjudicate whether the ingredients of defamation have been made out by the Appellant. The submissions of the learned counsel for the Respondent regarding non maintainability of the case, based on lodging of an FIR, have deliberately not been adjudicated by me for the foregoing reasons.

9. I have noted that the learned Trial Court had already framed issues in the said suit. However, prior to recording of evidence, the learned trial court proceeded to dismiss the suit of the Appellant without noting the legal issue framed earlier, was being addressed. Such deliberation, it is held, was unwarranted and it would have been desirable for the learned Trial Court to record evidence and adjudicate the case of the Appellant on merits. The said point of determination is answered in the negative.

10. In light of what has been held above the Impugned Order is set aside. The instant miscellaneous appeal is allowed. The matter is remanded back to the learned Trial Court to decide the matter after recording of evidence of the respective parties within sixty (60) days from today (excluding summer vacations).

J U D G E

Nadeem Qureshi "PA"